

CMS Manual System	Department of Health & Human Services (DHHS)
Pub 100-06 Medicare Financial Management	Centers for Medicare & Medicaid Services (CMS)
Transmittal 222	Date: June 14, 2013
	Change Request 8324

SUBJECT: Revisions and Deletions to the Internet Only Manual, Publication 100-06, Chapter 3, Overpayments; Section 140.2.3 - Filing Bankruptcy Draws a Line in the Sand

I. SUMMARY OF CHANGES: This CR corrects language in chapter 3, section 140.2.3 to be in line with OGC guidance.

EFFECTIVE DATE: July 17, 2013

IMPLEMENTATION DATE: July 17, 2013

Disclaimer for manual changes only: The revision date and transmittal number apply only to red italicized material. Any other material was previously published and remains unchanged. However, if this revision contains a table of contents, you will receive the new/revised information only, and not the entire table of contents.

II. CHANGES IN MANUAL INSTRUCTIONS: (N/A if manual is not updated)

R=REVISED, N=NEW, D=DELETED-Only One Per Row.

R/N/D	CHAPTER / SECTION / SUBSECTION / TITLE
R	3/140.2.3/Filing Bankruptcy Draws a Line in the Sand

III. FUNDING:

For Fiscal Intermediaries (FIs), Regional Home Health Intermediaries (RHHIs) and/or Carriers:

No additional funding will be provided by CMS; Contractors activities are to be carried out with their operating budgets.

For Medicare Administrative Contractors (MACs):

The Medicare Administrative Contractor is hereby advised that this constitutes technical direction as defined in your contract. CMS does not construe this as a change to the MAC statement of Work. The contractor is not obliged to incur costs in excess of the amounts allotted in your contract unless and until specifically authorized by the Contracting Officer. If the contractor considers anything provided, as described above, to be outside the current scope of work, the contractor shall withhold performance on the part(s) in question and immediately notify the Contracting Officer, in writing or by e-mail, and request formal directions regarding continued performance requirements.

IV. ATTACHMENTS:

**Business Requirements
Manual Instruction**

**Unless otherwise specified, the effective date is the date of service.*

Attachment - Business Requirements

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EFFECTIVE DATE: July 17, 2013

IMPLEMENTATION DATE: July 17, 2013

I. GENERAL INFORMATION

A. Background: Current language in section 140.2.3, states that events that occur before the petition date are prepetition. The language also states that events that occur after the prepetition date are postpetition. CMS has been advised by our Office of the General Counsel (OGC) that the Department of Justice recognizes the petition date as postpetition. Therefore, a revision to the manual to recognize the petition date as postpetition is required.

B. Policy: This CR corrects current language in chapter 3, section 140.2.3 to be line with OGC guidance.

II. BUSINESS REQUIREMENTS TABLE

"Shall" denotes a mandatory requirement, and "should" denotes an optional requirement.

Number	Requirement	Responsibility											
		A/B MAC			DME	FIC	CAR	RHI	Shared-System Maintainers				Other
		A	B	HHH					FIS	MCS	VMS	CFW	
8324.1	Contractors shall be aware of the revisions to Pub. 100-06, Chapter 3, Section 140.2.3, which include updates to the bankruptcy requirements, and make the appropriate steps to become compliant.	X	X		X	X	X	X					

III. PROVIDER EDUCATION TABLE

Number	Requirement	Responsibility							
		A/B MAC			DME	FIC	CAR	RHI	Other
		A	B	HHH					
	None								

IV. SUPPORTING INFORMATION

Section A: Recommendations and supporting information associated with listed requirements: N/A

"Should" denotes a recommendation.

X-Ref Requirement Number	Recommendations or other supporting information:

Section B: All other recommendations and supporting information: N/A

V. CONTACTS

Pre-Implementation Contact(s): Jacqueline Gordon, 410-786-4517 or Jacqueline.Gordon@cms.hhs.gov

Post-Implementation Contact(s): Contact your Contracting Officer's Representative (COR) or Contractor Manager, as applicable.

VI. FUNDING

Section A: For Fiscal Intermediaries (FIs), Regional Home Health Intermediaries (RHHIs), and/or Carriers:

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Section B: For Medicare Administrative Contractors (MACs):

The Medicare Administrative Contractor is hereby advised that this constitutes technical direction as defined in your contract. CMS do not construe this as a change to the MAC Statement of Work. The contractor is not obligated to incur costs in excess of the amounts allotted in your contract unless and until specifically authorized by the Contracting Officer. If the contractor considers anything provided, as described above, to be outside the current scope of work, the contractor shall withhold performance on the part(s) in question and immediately notify the Contracting Officer, in writing or by e-mail, and request formal directions regarding continued performance requirements.

140.2.3 - Filing Bankruptcy Draws a Line in the Sand

(Rev.222, Issued: 06-14, 13, Effective: 07-17, 13, Implementation: 07-17, 13)

The petition date (i.e., the date the debtor files its petition in bankruptcy with the Bankruptcy Court) draws a line in the sand between prepetition and postpetition actions. Events that occur before the petition date are prepetition. Events that occur *on or* after the petition date are postpetition. The automatic stay governs many actions that contractors may take concerning a debtor postpetition. *Contractors shall* therefore consult *with* the RO before *taking* action concerning the debtor postpetition.

Medicare's right to recover overpayments can depend on whether they are prepetition or postpetition. The RO *shall* direct *contractors on* how to treat payments for prepetition services (prepetition payments) and payments for postpetition services (postpetition payments) to maximize Medicare's recovery.